



THE ATTORNEY GENERAL
OF TEXAS

Gerald C. Mann

~~JOHN A. KENNEDY~~
ATTORNEY GENERAL

AUSTIN 11, TEXAS

Hon. Parks E. McMichael
County Attorney
Cass County
Linden, Texas

Opinion No. 0-780

Re: Whether nepotism law is
violated when the son of one
of the Board of Trustees of
an independent school district
is employed by the Board to
operate a school bus.

Dear Sir:

We are in receipt of your letter of May 6, 1939, wherein you advise that the Board of Trustees of an independent school district has employed the son of one of said trustees to operate a school bus in the transportation of children to and from school, the driver being paid directly out of the school fund of the district. You request our opinion as to whether this constitutes a violation of the nepotism law.

Article 432, Penal Code, provides as follows:

"No officer of this State, or any officer of any district, *** school district, *** or member of any school district, *** created by or under authority of any general or special law of this State, *** shall appoint or vote for or confirm the appointment to any *** position *** employment or duty, of any person related within the second degree by affinity, or within the third degree by consanguinity to the person so appointing or so voting, or to any other member of any such board *** of which such person so appointing or voting may be a member, when the salary, *** or compensation of such appointee is to be paid for, directly or indirectly, out of or from public funds or fees of office of any kind or character whatsoever."

Article 433, Penal Code, provides as follows:

"The inhibitions set forth in this law shall apply to and include *** public school trustees."

Hon. Parks E. McMichael, page 2, (0-780)

The case which you present falls squarely within Article 432. The son is related to the father by affinity in the first degree. The father is an officer of a school district, being a trustee thereof. The son is appointed to an employment under which his compensation is paid from public funds. Every element of said Article 432 is present, and our answer to your question is, therefore, in the affirmative.

Kindly permit us to express our appreciation for the brief furnished to us.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By /s/ Glenn R. Lewis
Glenn R. Lewis, Assistant

APPROVED:
/s/ Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

GRL:FG:wb